

NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL GUIBILO,

Defendant.

Criminal No.: 04-558 (JLL)

ORDER

LINARES, District Judge.

The instant matter comes before the Court on the July 7, 2008, motion (CM/ECF #103) by Defendant Michael Guibilo (“Defendant” or “Guibilo”) to obtain papers pertinent to his appeal. No oral argument was heard.

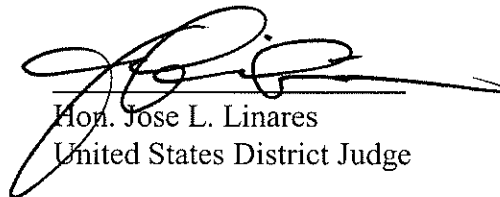
Defendant argues that in order to prepare a meaningful brief for his appeal, he must obtain records concerning “pretrial proceedings, trial, sentencing hearing, and any other documents related to this case.” (Def. Br. at 2.) The Government responds by stating that it has no objection to this Court ordering Guibilo’s former appellate counsel to turn over these documents, and that this Court could do so under a judicial economy exception to the exclusive jurisdiction rule of Griggs v. Provident Consumer Discount Co., 459 U.S. 56 (1982). (Gov’t Br. at 2.)

Defendant filed his notice of appeal in this matter on October 20, 2006. Ordinarily, such an act divests this Court of jurisdiction of any part of the case involved in the appeal. Griggs,

459 U.S. at 58. The Third Circuit has recognized significant exceptions to the rule of Griggs to effectuate judicial efficiency. Sheet Metal Workers' Int'l. Ass'n Local 19 v. Herre Bros., Inc., 198 F.3d 391, 394 (3d Cir. 1999). This Court, however, finds that the instant motion of Defendant presents a situation in which respecting the rule of Griggs is appropriate. The Third Circuit appointed an attorney for Guibilo for the purposes of appeal, Michael G. Paul, who filed a brief which was withdrawn at Guibilo's request. (Gov't Br. at 2.) Currently pending before the Third Circuit is Guibilo's request, filed July 7, 2008, that new counsel be appointed in his case. Given the fact that Guibilo's request for the record in this case is intertwined with a motion pending before the Court of Appeals, this Court does not deem it proper at this time to take jurisdiction over Defendant's instant motion, and refuses to take jurisdiction over this matter under Griggs, as the relief sought would more appropriately come from the Third Circuit. 459 U.S. at 58.

IT IS on this 15th day of August, 2008,

ORDERED that Defendant's motion requesting for the production of documents [CM/ECF #103] is DENIED.


Hon. Jose L. Linares
United States District Judge